

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**LAKE CHARLES DIVISION**

**JAMES HARPER DBA FOXY LADY           :   DOCKET NO. 06-0773**

**VS.   :   JUDGE MINALDI**

**FIRST FINANCIAL INSURANCE CO.       :   MAGISTRATE JUDGE WILSON**

**REPORT AND RECOMMENDATION**

Before the court is plaintiff's motion to remand [doc. # 18].<sup>1</sup> This matter was removed to federal court on the basis of diversity jurisdiction. 28 U.S.C. § 1332. The motion to remand alleges that plaintiff's claims do not exceed the requisite \$75,000 threshold amount for the exercise of diversity jurisdiction. Furthermore, Plaintiff has stipulated that his damages do not exceed \$75,000. The defendants do not oppose remand. (*See*, Motion, ¶ 10, Affidavit [doc. 18-2], and Certificate [doc. 18-3]).

Accordingly, the court finds that the amount in controversy does not exceed the minimum amount required to invoke federal diversity jurisdiction. *DeAguilar v. Boeing Co.*, 47 F.3d 1404 (5th Cir. 1995). Subject matter jurisdiction is lacking and remand is required. 28 U.S.C. § 1447(c). For the foregoing reasons,

IT IS RECOMMENDED that plaintiff's motion to remand [doc. # 18] be GRANTED.

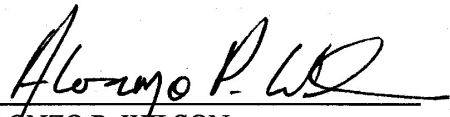
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<sup>1</sup> The motion has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A).

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.**

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, on January 24, 2007.

  
ALONZO P. WILSON  
UNITED STATES MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**LAKE CHARLES DIVISION**

**JAMES HARPER DBA FOXY LADY           :   DOCKET NO. 06-0773**

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**FIRST FINANCIAL INSURANCE CO.       :   MAGISTRATE JUDGE WILSON**

**JUDGMENT OF REMAND**

There being no objection to the proposed findings of fact and conclusions of law in the Report and Recommendation of the Magistrate Judge previously filed herein these findings and conclusions are accepted. Alternatively, this court concludes that the proposed findings and conclusions are entirely correct. Accordingly,

IT IS ORDERED that plaintiff's motion to remand [doc. # 18] be, and it is hereby GRANTED. The cause is remanded to the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana.

IT IS FURTHER ORDERED that the Clerk of Court certify a copy of this judgment, and forward the same to the Clerk of the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
PATRICIA MINALDI  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**LAKE CHARLES DIVISION**

**JAMES HARPER DBA FOXY LADY           :   DOCKET NO. 06-0773**

**VS.   :   JUDGE MINALDI**

**FIRST FINANCIAL INSURANCE CO.       :   MAGISTRATE JUDGE WILSON**

**JUDGMENT OF REMAND**

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein and after an independent review of the record, and a *de novo* determination of the issues, and consideration of the objections filed herein, and having determined that the findings are correct under applicable law;

IT IS ORDERED that plaintiff's motion to remand [doc. # 18] be, and it is hereby GRANTED. The cause is remanded to the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana.

IT IS FURTHER ORDERED that the Clerk of Court certify a copy of this judgment, and forward the same to the Clerk of the 14th Judicial District Court for the Parish of Calcasieu, State of Louisiana.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
PATRICIA MINALDI  
UNITED STATES DISTRICT JUDGE